

SENATE BILL NO. 13

INTRODUCED BY D. STEINBEISSER

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT ANY AVAILABLE FEDERAL FUNDS FOR STATE FISH HATCHERIES BE APPORTIONED EQUITABLY AMONG ALL HATCHERIES UNDER CONTROL OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS; DIRECTING THE EXPENDITURE OF FEDERAL FUNDS FOR OPERATION AND MAINTENANCE OF THE FORT PECK MULTISPECIES FISH HATCHERY AND USE OF PROCEEDS FROM THE WARM WATER GAME FISH SURCHARGE AS MATCHING FUNDS TO SECURE FEDERAL FUNDS; AMENDING SECTIONS 87-3-201, 87-3-235, AND 87-3-236, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 87-3-201, MCA, is amended to read:

"87-3-201. Department control over fish hatcheries. (1) The department has full control of all state fish hatcheries and is responsible for their construction, maintenance, and operation. All that construction work done under contract or otherwise ~~shall~~ must be done under control and supervision of the director. The department shall administer the taking and collecting of all spawn, the hatching of all spawn and eggs, and the rearing, propagation, and distribution of fry, fingerlings, and fish. The department may purchase as many eyed eggs as are necessary to keep the hatcheries of the state supplied with eggs and in full operation. The department shall make every reasonable effort to collect sufficient eggs from the public streams or lakes of this state to supply the hatcheries and for that purpose may build, equip, and use fish traps and nets at any time of the year in all public waters. The department may purchase the eyed eggs of fish not propagated in this state for the purpose of stocking the waters of this state.

(2) For purposes of funding all hatcheries under department control, the department shall equitably apportion any available federal funds among the hatcheries according to a formula for sharing, developed by the department, based on each hatchery's operating and maintenance expenses."

Section 2. Section 87-3-235, MCA, is amended to read:

"87-3-235. Fort Peck multispecies fish hatchery established. (1) There is a multispecies fish hatchery

1 near Fort Peck dam. The purpose of the hatchery is to provide healthy warm water game fish to improve the warm
2 water fishing opportunities in Montana with minimal impact on cold water fish populations. Administration of the
3 hatchery must be by the department, consistent with the department's authority provided for in 87-3-201.

4 (2) The multispecies hatchery is intended to use 96 acres of rearing ponds to produce warm water
5 species. The hatchery is to employ land available through long-term lease from the U.S. army corps of engineers.
6 It is intended that the hatchery use free, high-quality water from the dredge cut adjacent to Fort Peck dam. Electric
7 power for the hatchery may be purchased from Fort Peck dam at the lowest available rate.

8 (3) Warm water species to be propagated at the hatchery may include largemouth bass (*Micropterus*
9 *salmoides*), smallmouth bass (*Micropterus dolomieu*), walleye (~~*Stizostedion vitreum*~~) (*Sander vitreus*), sauger
10 (~~*Stizostedion canadense*~~) (*Sander canadensis*), black crappie (*Pomoxis nigromaculatus*), white crappie (*Pomoxis*
11 *annularis*), channel catfish (*Ictalurus punctatus*), yellow perch (*Perca flavescens*), northern pike (*Esox lucius*),
12 pallid sturgeon (*Scaphirhynchus albus*), paddlefish (*Polyodon spathula*), tiger muskellunge, other warm water
13 species classified as species of special concern, threatened, or endangered, and bait fish, including cisco
14 (*Coregonus artedii*). The hatchery may also include raceways for salmon.

15 (4) ~~Costs~~ In addition to any federal funds provided pursuant to 87-3-201(2) for operation and
16 maintenance, costs for hatchery construction, operation, maintenance, and personnel are to be funded with
17 revenue in the warm water game fish accounts established in 87-3-236. It is intended that the hatchery be
18 constructed in stages as revenue becomes available in the warm water game fish accounts established in
19 87-3-236."

20
21 **Section 3.** Section 87-3-236, MCA, is amended to read:

22 **"87-3-236. Warm water game fish surcharge and stamp -- warm water game fish defined --**
23 **accounts established -- dedication of revenue to Fort Peck multispecies fish hatchery.** (1) A person who
24 is required to be licensed in order to fish in Montana and who desires to fish in waters listed pursuant to
25 subsection (9) shall, upon purchase of a Class A, Class B, Class B-4, Class B-5, or Class A-8 fishing license, pay
26 a warm water game fish surcharge of \$5. The surcharge is in addition to the license fee established for each class
27 of license and entitles the holder to fish in the waters listed pursuant to subsection (9) as authorized by the
28 department. Payment of the surcharge must be indicated by placement of a warm water game fish stamp on the
29 fishing license.

30 (2) A warm water game fish stamp is valid for the license year in which it is purchased.

(3) Revenue from the warm water game fish surcharge must be placed in the account created in subsection (5) and may be used only for the purposes set out in subsection (7).

(4) As used in this section, "warm water game fish" includes but is not limited to all species of the genera ~~Stizostedion~~ Sander, Esox, Micropterus, and Lota and includes largemouth bass (Micropterus salmoides), smallmouth bass (Micropterus dolomieu), walleye (~~Stizostedion vitreum~~) (Sander vitreus), sauger (~~Stizostedion canadense~~) (Sander canadensis), black crappie (Pomoxis nigromaculatus), white crappie (Pomoxis annularis), channel catfish (Ictalurus punctatus), yellow perch (Perca flavescens), northern pike (Esox lucius), pallid sturgeon (Scaphirhynchus albus), paddlefish (Polyodon spathula), other warm water species classified as species of special concern, threatened, or endangered, chinook salmon (Oncorhynchus tshawytscha), and tiger muskellunge.

(5) There is an account into which must be deposited:

(a) all proceeds from the warm water game fish surcharge established in subsection (1); and

(b) money received by the department in the form of gifts, grants, reimbursements, or appropriations from any source intended to be used for the Fort Peck multispecies fish hatchery.

(6) The department shall administer the account within the state special revenue fund established in 17-2-102.

(7) Subject to the provisions of subsection (8), revenue collected under subsection (5) must be used by the department for the operation, maintenance, and personnel costs of the Fort Peck multispecies fish hatchery established in 87-3-235, which may include the costs incurred in eradicating illegally introduced warm water species from Montana waters. No more than 15% of available revenue may be dedicated to eradication efforts. When applying for federal funds for operation and maintenance costs of the Fort Peck multispecies fish hatchery, the department shall use proceeds from the warm water game fish surcharge as matching funds.

(8) The department may not use any nonfederal funds for the hatchery authorized in 87-3-235 other than those in the account provided for in subsection (5). There is an account in the federal special revenue fund into which must be deposited all federal money received for purposes of the Fort Peck multispecies fish hatchery and from which the department may use funds for the hatchery authorized in 87-3-235.

(9) The department shall prepare a list of all waters into which fish from the Fort Peck multispecies fish hatchery will be planted. All waters listed in the Montana fishing regulations that require a warm water stamp and waters planted or waters that will be planted with fish from the Fort Peck multispecies fish hatchery must be permanently included on the list. The waters designated in the list are the only waters for which a warm water

1 game fish stamp is required."

2

3 NEW SECTION. **Section 4. Effective date.** [This act] is effective July 1, 2009.

4 - END -